

Christian Contreras, Esq., (SBN 330269)

CC@Contreras-Law.com

Edwin S. Salguero, Esq., (SBN 344820)

ES@Contreras-Law.com

LAW OFFICES OF CHRISTIAN CONTRERAS

PROFESSIONAL LAW CORPORATION

360 E. 2nd St., 8th Floor

Los Angeles, California 90012

Tel: (323) 435-8000; Fax: (323) 597-0101

Attorneys for Plaintiff,

DOUGLAS CHESLIK

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

DOUGLAS CHESLIK, individually,

Plaintiff,

v.

MADERA COUNTY SHERIFF'S
DEPARTMENT, a public entity;
COUNTY OF MADERA, a public
entity; MADERA COUNTY DOE RN,
individually; STATE OF
CALIFORNIA; CALIFORNIA
HIGHWAY PATROL, a public entity;
SHERIFF TYSON J. POGUE;
individual; DEPUTY K. BEHE,
individual; CHP OFFICER EFRAIN
JIMENEZ, individually; DOES 1
through 10, individually,

Defendants.

CASE NO.: 23-cv-1052

COMPLAINT FOR DAMAGES

1. Failure to Provide Medical Care,
Fourth Amendment Violation (42
U.S.C. § 1983);
2. Failure to Provide Medical Care,
Fourteenth Amendment Violation (42
U.S.C. § 1983);
3. Failure to Protect from Harm,
Fourteenth Amendment Violation (42
U.S.C. § 1983);
4. Policies, Customs, Practices Causing
Constitutional Violations (*Monell*, 42
U.S.C. § 1983);
5. Supervisory Liability Causing
Constitutional Violations (Failure to
Properly Train, Supervise and
Discipline, 42 U.S.C. § 1983);
6. Negligence;
7. Negligence – Medical Malpractice;
8. Violation of California Government
Code §845.6;
9. Violation of California Civil Code
§52.1 (Tom Bane Act);

DEMAND FOR JURY TRIAL

JURISDICTION AND VENUE

1
2 1. This action is brought pursuant to 42 U.S.C. §§ 1983 and 1988, and the
3 Fourth and Fourteenth Amendments to the United States Constitution, and the laws and
4 Constitution of the State of California. Jurisdiction is conferred upon this Court by 28
5 U.S.C. §§ 1331 and 1343.

6 2. This Court has the authority to grant the requested declaratory relief
7 pursuant to 28 U.S.C. §§ 2201, as well as Federal Rules of Civil Procedure 57,
8 including pursuant to the Court's inherent equitable powers.

9 3. Venue is proper within the Eastern District of California pursuant to 28
10 U.S.C. § 1391(b)(1) and (2) because all Defendants reside within this district and the
11 events and omissions giving rise to Plaintiff's claims occurred within this district.

12 4. Plaintiff has complied with the California Tort Claims Act requirements
13 with respect to their claims arising under state law.

14 5. With respect to these supplemental state claims, Plaintiff request that this
15 Court exercise supplemental jurisdiction pursuant to 28 U.S.C. § 1367 over such claims
16 as they arise from the same facts and circumstances which underlie the federal claims.

PARTIES

17
18 6. Plaintiff DOUGLAS CHESLIK is and was, at all times relevant hereto, a
19 resident of the County of Madera, California.

20 7. Defendant COUNTY OF MADERA (hereinafter also "COUNTY") owns,
21 operates, manages, directs and controls Defendant MADERA COUNTY SHERIFF'S
22 DEPARTMENT (hereinafter also "MSD")¹, also a separate public entity, which
23 employed MADERA COUNTY SHERRIF'S DEPUTY K. BEHE badge # 32401 and
24 other Doe Defendants in this action. At all times relevant to the facts alleged herein,
25 Defendant COUNTY was responsible for assuring that the actions, omissions, policies,

26
27 ¹ The Ninth Circuit has held that California law permits § 1983 claims against municipal police
28 departments. *See Karim-Panahi v. Los Angeles Police Dep't*, 839 F.2d 621, 624 n. 2 (9th Cir. 1988)
("Municipal police departments are 'public entities' under California law and, hence, can be sued in
federal court for alleged civil rights violations.).

1 procedures, practices, and customs of its employees, including MSD employees
2 complied with the laws and the Constitutions of the United States and of the State of
3 California. Defendant COUNTY, through MSD, is and was responsible for ensuring
4 the protection and safety of all persons incarcerated at the MSD correctional facilities.

5 8. Defendant COUNTY also owns, operates, manages, directs and controls
6 Defendant medical staff within MADERA COUNTY Jails including DOE RN. At all
7 times relevant to the facts alleged herein, Defendant COUNTY was responsible for
8 assuring that the actions, omissions, policies, procedures, practices, and customs of its
9 employees, including DOE RN and COUNTY medical employees complied with the
10 laws and the Constitutions of the United States and of the State of California. Defendant
11 COUNTY, through MSD, is and was responsible for ensuring the protection and safety
12 of all persons incarcerated at the MSD correctional facilities

13 9. Defendant COUNTY OF MADERA (hereinafter also "COUNTY") owns,
14 operates, manages, directs and controls Defendant MADERA COUNTY SHERIFF'S
15 DEPARTMENT (hereinafter also "MSD"), also a separate public entity, which
16 employed MADERA COUNTY SHERIFF'S DEPUTY K. BEHE badge # 32401 and
17 other Doe Defendants in this action. At all times relevant to the facts alleged herein,
18 Defendant COUNTY was responsible for assuring that the actions, omissions, policies,
19 procedures, practices, and customs of its employees, including MSD employees
20 complied with the laws and the Constitutions of the United States and of the State of
21 California. Defendant COUNTY, through MSD, is and was responsible for ensuring
22 the protection and safety of all persons incarcerated at the MSD correctional facilities.

23 10. At all material times, Defendant STATE OF CALIFORNIA employed the
24 individual CALIFORNIA HIGHWAY PATROL Defendants in this action, and all
25 individual CALIFORNIA HIGHWAY PATROL Defendants acted within the course
26 and scope of their employment with the STATE.

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11. Defendant CALIFORNIA HIGHWAY PATROL (hereinafter also “CHP”)², also a separate public entity, which employed CHP OFFICER EFRAIN JIMENEZ Badge #18075 in this action. At all times relevant to the facts alleged herein, Defendant CHP was responsible for assuring that the actions, omissions, policies, procedures, practices and customs of its employees, including CHP officers complied with the laws and the Constitutions of the United States and of the State of California. Defendant CHP, through its CHP OFFICERS, is and was responsible for ensuring the protection and safety of all persons they made contact with.

12. Defendant SHERIFF TYSON J. POGUES (“SHERIFF POGUE”), at all times mentioned herein, was the Sheriff of Defendant COUNTY OF MADERA, the highest position in the COUNTY Jails. As Sheriff, Defendant SHERIFF POGUE is and was responsible for the hiring, screening, training, retention, supervision, discipline, counseling, and control of all COUNTY Jails’ employees and/or agents. Defendant SHERIFF POGUE is and was charged by law with oversight and administration of the COUNTY Jails, including ensuring the safety of the inmates housed therein. Defendant SHERIFF POGUE also is and was responsible for the promulgation of the policies and procedures and allowance of the practices/customs pursuant to which the acts of the COUNTY Jails alleged herein were committed. Defendant SHERIFF POGUE is being sued in his individual and official capacities.

13. At all relevant times, Defendants DEPUTY K. BEHE Badge # 32401 was a sheriff deputy employed with the Madera County Sheriff’s Department. At all relevant times, Defendant DEPUTY K. BEHE, was acting under color of law.

14. At all relevant times, CHP OFFICER EFRAIN JIMENEZ Badge #18075 was an officer employed with the California Highway Patrol. At all relevant times, Defendant CHP OFFICER EFRAIN JIMENEZ, was acting under color of law.

² The Ninth Circuit has held that California law permits § 1983 claims against municipal police departments. *See Karim-Panahi v. Los Angeles Police Dep’t*, 839 F.2d 621, 624 n. 2 (9th Cir. 1988) (“Municipal police departments are ‘public entities’ under California law and, hence, can be sued in federal court for alleged civil rights violations.”).

1 15. Plaintiff is ignorant of the true names and capacities of Defendants DOES
2 1 through 10 (“DOE Defendants”) and therefore sue these Defendants by such fictitious
3 names. Plaintiff is informed and believe and thereon allege that each Defendant so named
4 is responsible in some manner for the injuries and damages sustained by Plaintiff as set
5 forth herein. Plaintiff will amend their complaint to state the names and capacities of
6 each DOE Defendant when they have been ascertained.

7 16. The identities, capacities, and/or nature of involvement of the defendants
8 sued as DOES 1 through 10 are presently unknown to the Plaintiff who therefore sue
9 these defendants by fictitious names. Plaintiff is informed, believes, and thereupon
10 alleges that DOES 1 through 10 include individual law enforcement personnel and
11 medical personnel employed by the MSD and the COUNTY Correctional Health
12 Services, and that they were involved in some manner and are legally responsible for
13 the wrongful acts and conduct alleged herein. Plaintiff will amend this complaint to
14 substitute the DOE Defendants’ true names and capacities when they have been
15 ascertained. Plaintiff is informed, believes, and thereupon alleges that each DOE
16 defendant is a resident of California. Upon information and belief, DOES 1 through 10
17 were and still are residents of the COUNTY OF MADERA, California. DOES 1 through
18 10 are sued in both their individual and official capacities.

19 17. At all relevant times, DOES 7 and 8 were managerial, supervisory,
20 training, and/or policymaking employees of Defendant COUNTY Correctional Health
21 Services. At the time of the incident, DOES 7 and 8 were acting under color of law within
22 the course and scope of their duties as employees for the COUNTY Correctional Health
23 Services. They had supervisory authority over DOES 1-10, and the COUNTY
24 Correctional Health Services employees at the COUNTY Jails. DOES 7 and 8 were
25 acting with the complete authority and ratification of their principal, Defendant
26 COUNTY.

27 18. At all relevant times, DOES 9 and 10 were managerial, supervisory,
28 training, and/or policymaking employees of Defendant COUNTY. At the time of the

1 incident, DOES 9 and 10 were acting under color of law within the course and scope of
2 their duties as employees for the MSD and/or the COUNTY. They had supervisory
3 authority over DOES 1-10, and the employees of the MSD. DOES 9 and 10 were acting
4 with the complete authority and ratification of their principal, Defendant COUNTY.

5 19. Each of the defendants, including the DOE defendants, caused, and is
6 responsible for, the unlawful conduct and resulting injuries suffered by Plaintiff by,
7 among other things, personally participating in the unlawful conduct, acting jointly, or
8 conspiring with others who did so; by ordering, authorizing, acquiescing in, or setting
9 in motion policies, plans, or actions that led to the unlawful conduct, by failing to take
10 action to prevent the unlawful conduct; by failing and refusing to initiate and maintain
11 adequate training and supervision; by failing to enact policies to address the
12 constitutional rights of protesters despite the obvious need for such a policy; and by
13 ratifying the unlawful conduct that occurred by agents and officers under their direction
14 and control, including failing to take remedial or disciplinary action.

15 20. Plaintiff is informed and believes and thereon alleges that each of the
16 Defendants was at all material times an agent, servant, employee, partner, joint venturer,
17 co-conspirator, and/or alter ego of the remaining Defendants, and in doing the things
18 herein alleged, was acting within the course and scope of that relationship. Plaintiff is
19 further informed and believes and thereon alleges that each of the Defendants herein
20 gave consent, aid, and assistance to each of the remaining Defendants, and ratified and/or
21 authorized the acts or omissions of each Defendant as alleged herein, except as may be
22 hereinafter specifically alleged. At all material times, each Defendant was jointly
23 engaged in tortious activity and an integral participant in the conduct described herein,
24 resulting in the deprivation of Plaintiff's, DOUGLAS CHESLIK, constitutional rights
25 and other harm.

26 21. Plaintiff is informed, believes, and thereupon alleges that, at all times
27 relevant hereto, Defendants, and each of them, acted as the agents, servants, and
28 employees of each of the other defendants.

22. In doing each of the acts and/or omissions alleged herein, Defendants, and each of them, acted within the course and scope of their employment.

23. In doing each of the acts and/or omissions alleged herein, Defendants, and each of them, acted under color of authority and/or under the color of law.

FACTUAL ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

24. On March 17, 2023, at approximately 7:30 a.m., DOUGLAS CHESLIK was involved in a head-on automobile collision. DOUGLAS CHESLIK took his eyes off the road and crashed as he tried to pick up coins that had fallen onto the right front floorboard. From the impact of the collision, DOUGLAS CHESLIK immediately woke up and realized he could not breathe. DOUGLAS CHESLIK had severe chest pain that felt like the inside of his chest was on fire, a sensation he never felt before.

25. After climbing out of his wrecked vehicle through a broken window, DOUGLAS CHESLIK remained in a state of shock while he waited for help to arrive. As he waited for medical assistance, he rolled on the ground for about five (5) to six (6) minutes because he could not tolerate the pain.

26. Eventually, Defendant CHP OFFICER EFRAIN JIMENEZ, arrived at the scene and made contact with DOUGLAS CHESLIK. However, Defendant CHP OFFICER EFRAIN JIMENEZ failed to provide immediate medical care for his serious internal injuries. In fact DOUGLAS CHESLIK was the last individual involved in the collision that was viewed by paramedics.

27. Upon information and belief, upon arriving at the scene, rather than allowing DOUGLAS CHESLIK to proceed with medical care from paramedics, Defendant CHP OFFICER EFRAIN JIMENEZ disregarded his pleas and visible injuries and instead arrested him pursuant to a bench warrant for a failure to appear.

28. Subsequently, Defendant CHP OFFICER EFRAIN JIMENEZ and paramedics began to assist others involved in the vehicle collision but still neglected DOUGLAS CHESLIK's need for medical care. Eventually, paramedics checked DOUGLAS CHESLIK's blood pressure and it was reported to DOUGLAS CHESLIK

1 that he has irregular his blood pressure. Even though DOUGLAS CHESLIK was
2 noticeably injured, DOUGLAS CHESLIK was placed in the back of an MSD patrol
3 vehicle and was not taken to the hospital despite his request and informing MSD that
4 he had severe chest pain. Instead, an MSD deputy drove off with DOUGLAS
5 CHESLIK, parked a block away from the scene of the accident and paramedics pulled
6 up, but only to clean the blood off DOUGLAS CHESLIK before an MSD deputy took
7 him to Madera County Jail.

8 29. When DOUGLAS CHESLIK arrived at Madera County Jail, DOE
9 REGISTERED NURSE took his vitals and informed him that something was wrong
10 with his blood pressure. DOE REGISTERED NURSE asked him if he was on
11 medications and DOUGLAS CHESLIK informed DOE REGISTERED NURSE that
12 he was just involved in a serious car accident, that he was having trouble breathing,
13 and that his chest felt like it was on fire. Upon information and belief, Defendant DOE
14 REGISTERED NURSE cleared Plaintiff DOUGLAS CHESLIK as ok to be booked
15 despite being in obvious need for medical care. Plaintiff DOUGLAS CHESLIK was
16 booked into COUNTY jail without being treated for his injuries.

17 30. At all relevant times, DOUGLAS CHESLIK had ruptured and lacerated
18 his spleen as a result of the earlier collision and had been bleeding internally the entire
19 time he was taken into custody by CHP and held in MSD custody. DOUGLAS
20 CHESLIK had bled out over three (3) liters of blood into his abdominal cavity while
21 he waited approximately three (3) hours after the accident before receiving adequate
22 medical care, causing his blood pressure and core body temperature to drop
23 dangerously low, among other serious consequences, before he eventually lost
24 consciousness and collapsed while in custody at MADERA COUNTY JAIL on his way
25 to attempt to make a phone call to a family member.

26 31. Thereafter, DOUGLAS CHESLIK was left to suffer from his injuries in a
27 jail cell. After DOUGLAS CHESLIK was in the jail for some time, he lost
28 consciousness. After losing consciousness, DOUGLAS CHESLIK woke up in a pool

1 of his own blood because he sustained a large 1.5-inch gash on his head, requiring
2 multiple stitches. Paramedics report that, upon their arrival at MADERA COUNTY
3 JAIL, the pool of blood that resulted from DOUGLAS CHESLIK's head wound had
4 already dried, indicating the passage of appreciable time before they had been called.

5 32. Moreover, DOUGLAS CHESLIK was left by MSD personnel to shiver in
6 a cell while enduring increasingly excruciating pain from his internal injuries and a
7 dangerously low body temperature, without the use of his shoes, the heating pad
8 provided to him by paramedics or any other such medical accommodations, despite
9 repeatedly verbalizing the need for medical attention, all amid hostile treatment and
10 mockery by MSD personnel.

11 33. Subsequently, DOUGLAS CHESLIK was transported from MADERA
12 COUNTY JAIL via ambulance to Fresno Community Hospital in a grave condition
13 that required immediate and extensive surgery, for which he now faces many more
14 months of recovery. Hospital staff report that DOUGLAS CHESLIK's injuries could
15 have been resolved laparoscopically and with minimal recovery if his injuries had been
16 addressed sooner. Notably, Deputy Laura Gray, a friend of the CHESLIKS' who, at
17 the time, worked at the facility where DOUGLAS CHESLIK was held, reports that the
18 staff at MADERA COUNTY JAIL were told that CHESLIK was brought in for
19 domestic violence. Upon information and belief, these misrepresentations are what
20 stirred the egregious animus shown by MSD personnel towards the CHESLIKS.

21 34. After DOUGLAS CHESLIK was transported via ambulance to Fresno
22 Community Hospital he went into surgery approximately five (5) minutes after arriving
23 due to the severity of his internal bleeding. DOUGLAS CHESLIK was then informed
24 that he had a broken toe, lacerated and ruptured his spleen, his intestinal wall of the
25 large intestine was perforated, lost three (3) liters of blood internally, and required an
26 immediate blood transfusion to save his life.

27 35. Accordingly, this legal action intends to hold the STATE, CHP,
28 COUNTY OF MADERA, and its MSD accountable for the extensive physical injuries,

1 economic harm, and other rights violations set forth herein, in order to rectify and
2 prevent such further injustices.

3 **FIRST CLAIM FOR RELIEF**

4 **Failure to Provide Medical Care,**

5 **Violation of the Fourth Amendment to the United States Constitution**

6 **(By Plaintiff DOUGLAS CHESLIK As Against CHP OFFICER EFRAIN**

7 **JIMENEZ and DOES 1 through 5)**

8 36. Plaintiff reallege and incorporate herein by reference each of the
9 preceding paragraphs of this complaint, and any subsequent paragraphs.

10 37. Claims for the denial of medical assistance after an arrest are analyzed
11 under the Fourth Amendment. *Tatum v. City & Cty. of San Francisco*, 441 F.3d 1090,
12 1098 (9th Cir. 2006). Officers must provide objectively reasonable post-arrest care to
13 an apprehended suspect. *Id.* “Due process requires that police officers seek the
14 necessary medical attention for a detainee when he or she has been injured while being
15 apprehended by either promptly summoning the necessary medical help or by taking
16 the injured detainee to a hospital.” *Tatum v. City and County of San Francisco* (9th Cir.
17 2006) 441 F.3d 1090, 1099 (citing *Graham v. Connor*, 409 U.S. 386 (1989). 441 F.3d
18 at 1098).

19 38. Upon information and belief, on March 17, 2023, after it was clear that
20 DOUGLAS CHESLIK needed medical care, Defendant CHP OFFICER EFRAIN
21 JIMENEZ and DOES 1-5, inclusive, did not allow DOUGLAS CHESLIK to get the
22 proper medical care he required and instead parked down the road from the initial
23 collision, waited for paramedics, and only allowed paramedics to clean the blood of
24 DOUGLAS CHESLIK.

25 39. In compliance with his obligations under the Fourth Amendment and
26 given that DOUGLAS CHESLIK was a in post-arrest custody, Defendant CHP
27 OFFICER EFRAIN JIMENEZ should have provided objectively reasonable post-arrest
28 care. However, no reasonable care was provided to DOUGLAS CHESLIK.

1 40. Worse yet, DOUGLAS CHESLIK was bleeding internally which placed
2 his life at risk. However, despite DOUGLAS CHESLIK's medical needs, CHP
3 OFFICER EFRAIN JIMENEZ and DOES 1-5, inclusive, failed to allow DOUGLAS
4 CHESLIK to receive proper medical care in violation of the Fourth Amendment.

5 41. Therefore, CHP OFFICER EFRAIN JIMENEZ and Defendants DOES 1-
6 5, inclusive, caused the severity of DOUGLAS CHESLIK's injuries to worsen as he
7 continued to bleed over three (3) liters of blood internally. COUNTY Defendants
8 DOES 1-5, inclusive, were aware that DOUGLAS CHESLIK had just been in a severe
9 car accident and that something was wrong with his blood pressure. Accordingly, CHP
10 OFFICER EFRAIN JIMENEZ and Defendants DOES 1-5, inclusive, are liable for all
11 damages recoverable under 42 U.S.C. Section 1983.

12 42. DOUGLAS CHESLIK by this action, further claims all of Plaintiff's
13 attorneys' fees and costs incurred and to be incurred in Plaintiff presenting, maintaining
14 and prosecuting this action under 42 U.S.C. Section 1988.

15 43. The conduct of CHP Defendants DOES 1-5 and COUNTY Defendants
16 DOES 1-5, inclusive was willful, wanton, malicious, and done with reckless disregard
17 for the rights and safety of DOUGLAS CHESLIK and therefore warrants the
18 imposition of exemplary and punitive damages as to CHP Defendants DOES 1-5 and
19 COUNTY Defendants, inclusive.

20 **SECOND CLAIM FOR RELIEF**

21 **Failure to Provide Medical Care,**

22 **Violation of the Fourteenth Amendment to the United States Constitution**

23 **(By Plaintiff DOUGLAS CHESLIK As Against Defendants DOE REGISTERED**
24 **NURSE, DEPUTY K. BEHE, and DOES 1 through 10)**

25 44. Plaintiff reallege and incorporate herein by reference each of the
26 preceding paragraphs of this complaint, and any subsequent paragraphs.

27 45. By the actions and omissions described above, Defendants DOES 1
28 through 10, as alleged herein, violated 42 U.S.C. § 1983, depriving DOUGLAS

CHESLIK of the following clearly established and well-settled constitutional rights protected by the Fourth and Fourteenth Amendments to the United States Constitution: the right to be free from deliberate indifference to DOUGLAS CHESLIK's serious medical needs while in custody as a pretrial detainee as secured by the Fourth and Fourteenth Amendments.

46. Indeed, it was clear as soon as DOUGLAS CHESLIK was taken into custody that he needed medical care. DOUGLAS CHESLIK had just been in a serious car accident, informed Defendants that his chest felt like it was on fire, that his foot hurt because of his broken toe, and that something was wrong with his blood pressure. However, despite DOUGLAS CHESLIK's need for medical care, Defendants DOES 1 through 10, failed to provide DOUGLAS CHESLIK with any medical care. Worse yet, even after being screened when booked and determined something was wrong with his blood pressure, Defendants DOES 1 through 10, were further deliberately indifferent to DOUGLAS CHESLIK's medical needs as he continued to bleed internally due to the severity of his injuries.

47. Finally, about three (3) hours after being under Defendant's custody, DOUGLAS CHESLIK collapsed due to the internal bleeding he was suffering and further injured himself as his head bounced off the concrete floor and lacerated his head. DOUGLAS CHESLIK was found unconscious in a pool of his own blood by Defendants DOES 1 through 10, because they ignored DOUGLAS CHESLIK's medical needs.

48. Upon information and belief, Defendants DOE REGISTERED NURSE, DEPUTY K. BEHE, and DOES 1 through 10, denied Plaintiff medical care when they encountered him. The denial of medical care to DOUGLAS CHESLIK placed DOUGLAS CHESLIK at substantial risk of suffering serious harm given that his medical needs were not being attended to.

49. Defendants DOE REGISTERED NURSE, DEPUTY K. BEHE, and DOES 1 through 10, did not take reasonable available measures to abate or reduce the

1 risk of serious harm, even though any reasonable person under the circumstances would
2 have understood the high degree of risk involved—making the consequences of the
3 Defendants DOE REGISTERED NURSE, DEPUTY K. BEHE, and DOES 1 through
4 10's conduct obvious. By not taking such measures the Defendants DOE
5 REGISTERED NURSE, DOE DEPUTY and DOES 1 through 10's t caused the
6 DOUGLAS CHESLIK's injuries.

7 50. By the actions and omissions described above, Defendants DOES 1
8 through 10, as alleged herein, including but not limited to their failure to provide
9 DOUGLAS CHESLIK with appropriate emergency medical care, along with the acts
10 and/or omissions of Defendants in failing to train, supervise, and/or promulgate
11 appropriate policies and procedures to provide emergency medical care and life saving
12 care to persons in their custody, constituted deliberate indifference to DOUGLAS
13 CHESLIK's serious medical needs, health, and safety.

14 51. As a direct and proximate result of Defendants' conduct, the civil rights
15 of DOUGLAS CHESLIK, as protected by the Fourteenth Amendment of the United
16 States Constitution were violated. Further, DOUGLAS CHESLIK experienced
17 physical pain, severe emotional distress, mental anguish, and other damages alleged
18 herein.

19 52. Defendants subjected DOUGLAS CHESLIK to their wrongful conduct,
20 depriving Plaintiff of his rights described herein, knowingly, maliciously, and with
21 conscious and reckless disregard for whether the rights and safety of Plaintiff and
22 others would be violated by their acts and/or omissions.

23 53. As a direct and proximate result of Defendants' acts and/or omissions as
24 set forth above, Plaintiff sustained injuries and damages.

25 54. The conduct of Defendants entitles Plaintiff to punitive damages and
26 penalties allowable under 42 U.S.C. § 1983 and as provided by law. Plaintiff does not
27 seek punitive damages against Defendants COUNTY or MSD.

28 ///

55. Plaintiff is also entitled to reasonable costs and attorneys' fees under 42 U.S.C. § 1988, and other applicable United States and California codes and laws.

THRID CLAIM FOR RELIEF

Failure to Protect from Harm,

Violation of the Fourteenth Amendment to the United States Constitution
(By Plaintiff DOUGLAS CHESLIK As Against Defendants DOE REGISTERED
NURSE, DEPUTY K. BEHE, and DOES 1 through 10)

56. Plaintiff reallege and incorporate herein by reference each of the preceding paragraphs of this complaint, and any subsequent paragraphs.

57. On March 17, 2023, Defendants DOE REGISTERED NURSE and DEPUTY K. BEHE and DOES 1 through 10, made the intentional decision of regarding the condition under which Plaintiff DOUGLAS CHESLIK was confined. Indeed, Defendants DOE REGISTERED NURSE and DEPUTY K. BEHE, and DOES 1 through 10, made the intentional decision of confining Plaintiff DOUGLAS CHESLIK in jail instead of sending him to a hospital or other appropriate medical facility.

58. Placing Plaintiff DOUGLAS CHESLIK in jail instead of a medical facility put Plaintiff DOUGLAS CHESLIK at substantial risk of suffering serious harm because Plaintiff DOUGLAS CHESLIK's medical emergency was not being attended to.

59. Defendants DOE REGISTERED NURSE, DEPUTY K. BEHE, and DOES 1 through 10, did not take reasonably available measures to abate or reduce the risk Plaintiff DOUGLAS CHESLIK was subject to, even though a reasonable person in the circumstances would have appreciated the high degree of risk involved making the consequences of the Defendants DOE REGISTERED NURSE, DEPUTY K. BEHE, and DOES 1 through 10,'s conduct obvious. Clearly, the conduct of Defendants DOE REGISTERED NURSE, DEPUTY K. BEHE, and DOES 1 through 10's was objectively unreasonable because any reasonable person would have given emergency

1 medical treatment to Plaintiff DOUGLAS CHESLIK.

2 60. Therefore, by not taking such measures, such as taking Plaintiff
3 DOUGLAS CHESLIK to a medical facility for emergency treatment, Defendants
4 DOE REGISTERED NURSE, DEPUTY K. BEHE, and DOES 1 through 10's caused
5 Plaintiff DOUGLAS CHESLIK's injuries.

6 61. Moreover, Defendants DEPUTY and DOES 1 through 10, are labile under
7 a failure to protect from harm theory because Defendants DEPUTY, including
8 DEPUTY K. BEHE, and DOES 1 through 10, failed to conduct timely Title 15 Safety
9 Checks such that Defendants DEPUTY, DEPUTY K. BEHE and DOES 1 through 10,
10 would have discovered Plaintiff DOUGLAS CHESLIK in a pool of blood in the midst
11 of a serious medical emergency sooner rather than later. If Defendants DEPUTY and
12 DOES 1 through 10, would have conducted proper Title 15 Safety Checks, Plaintiff
13 DOUGLAS CHESLIK would have received timely medical care. Instead, Plaintiff
14 DOUGLAS CHESLIK suffered immense harm and pain while he was left to die in his
15 cell.

16 62. Furthermore, Defendants COUNTY, MSD and DOES 1 through 10 were
17 on notice that their deficient policies, procedures, and practices alleged herein created
18 substantial risk of serious harm to a detainee in DOUGLAS CHESLIK's position.

19 63. Each Defendant could have taken action to prevent unnecessary harm to
20 DOUGLAS CHESLIK but refused or failed to do so.

21 64. By policy, procedure, and practice, Defendants COUNTY, MSD and
22 DOES 1 through 10 deliberately disregarded the hazards and risks posed to persons
23 incarcerated in MSD-controlled facilities, as alleged above. Defendants failed to take
24 any reasonable steps to mitigate the obvious and well-known risks of harm that was
25 attendant to housing DOUGLAS CHESLIK at an MSD-controlled Facility.

26 65. Defendants DOES 8 through 10 also knew that deputies routinely failed
27 to conduct required welfare and safety checks at MSD COUNTY JAIL and failed to
28 take sufficient actions to correct this problem and ensure that necessary checks were

1 performed.

2 66. Defendant SHERIFF POGUE failed to take corrective action, discipline,
3 or remove the command staff at the COUNTY Jails, including Madera County Jail,
4 who, upon information and belief, directed the deputies to falsify safety check logs and
5 violate the COUNTY's safety check policies. Defendant SHERIFF POGUE ratified
6 their actions, and the practices used under his watch.

7 67. Defendants COUNTY, MSD and DOES 1 through 10 were on notice that
8 their policies, procedures, and practices for monitoring inmates at the COUNTY Jails,
9 including Madera County Jail, were inadequate and gave rise to a substantial risk of
10 serious harm.

11 68. Defendants including SHERIFF POGUE, and DOES 8 through 10 failed
12 to properly train and supervise MSD custody, medical and mental health staff regarding
13 policies, procedures, and practices necessary for the protection of inmates from risks
14 and hazards existing within the COUNTY Jails, including Madera County Jail.

15 69. Defendants including SHERIFF POGUE, and DOES 8 through 10's
16 failure to correct their policies, procedures, and practices despite notice of significant
17 and dangerous problems evidences deliberate indifference to the inmates in their care.

18 70. Defendants SHERIFF POGUE, and DOES 8 through 10 ratified
19 Defendants DOES's actions and inactions amounting to constitutional violations.

20 71. Defendants DOES 1 through 10's failure to conduct the required safety
21 check of DOUGLAS CHESLIK's housing unit on the date of his injuries evidences
22 deliberate indifference to the risk of harm to DOUGLAS CHESLIK.

23 72. Upon information and belief, Defendants SHERIFF POGUE, and DOES
24 8 through 10 ratified Defendants DOES's failure to conduct safety checks and
25 falsification of logs.

26 73. As a direct and proximate result of Defendants' conduct, the civil right of
27 DOUGLAS CHESLIK, as protected by the Fourteenth Amendment of the United
28 States Constitution were violated. Further, DOUGLAS CHESLIK experienced

1 physical pain, severe emotional distress, mental anguish, and other damages alleged
2 herein.

3 74. Defendants subjected DOUGLAS CHESLIK to their wrongful conduct,
4 depriving him of rights described herein, knowingly, maliciously, and with conscious
5 and reckless disregard for whether the rights and safety of DOUGLAS CHESLIK and
6 others would be violated by their acts and/or omissions.

7 75. As a direct and proximate result of Defendants' acts and/or omissions as
8 set forth above, Plaintiff sustained injuries and damages.

9 76. The conduct of Defendants entitles Plaintiff to punitive damages and
10 penalties allowable under 42 U.S.C. § 1983 and as provided by law. Plaintiff does not
11 seek punitive damages against Defendants COUNTY.

12 77. Plaintiff is also entitled to reasonable costs and attorneys' fees under 42
13 U.S.C. § 1988, and other applicable United States and California codes and laws.

14 **FOURTH CLAIM FOR RELIEF**

15 **Municipal Policies, Customs, Practices Causing Constitutional Violations**

16 **(*Monell* - 42 U.S.C. § 1983)**

17 **(By Plaintiff DOUGLAS CHESLIK As Against Defendants COUNTY OF**
18 **MADERA and MADERA COUNTY SHERIFF'S DEPARTMENT)**

19 78. Plaintiff reallege and incorporate herein by reference each of the
20 preceding paragraphs of this complaint, and any subsequent paragraphs.

21 79. At all times relevant hereto, the COUNTY custody, medical and mental
22 health staff were required to adhere to and enforce the following policy and procedures:

- 23 a. To allow improper screenings during the intake process such that inmates
24 needing emergency medical care are cleared to be booked;
- 25 b. To deny pretrial detainees and other inmates access to timely, appropriate,
26 competent, and necessary care for serious medical needs, requiring such
27 inmates in crisis to remain untreated in jail instead of providing for their
28 emergency medical needs;

- c. To allow and encourage deputies doing regular cell checks on inmates, including in safety cells, to fail to document their actual observations of the inmate's condition and status, in violation of the Madera County's written policies and state law;
- d. To allow and encourage inadequate and incompetent medical care for jail inmates and arrestees;
- e. To hire, retain and contract for obviously inadequate medical care for jail inmates and arrestees, including creating financial incentives for custodial and medical personnel not to send inmates with emergency medical needs to a hospital;
- f. To allow, encourage, and require medical staff, including licensed vocational nurses and registered nurses, to work outside their legal scope of practice and without appropriate supervision;
- g. To fail to train custody staff that medical staff, including licensed vocational nurses, are not competent to assess or decide inmates' medical conditions, medical needs, or whether the inmate should be permitted to remain in the jail versus being sent to a hospital;
- h. To allow, encourage, and require unlicensed, incompetent, inadequately trained and/or inadequately supervised staff to assess inmates' medical condition, needs, and treatment, including to decide whether or not to provide inmates with necessary emergency care and hospitalization;
- i. To fail to institute, require, and enforce proper and adequate training, supervision, policies, and procedures concerning handling persons in medical crisis;
- j. To cover up violations of constitutional rights by any or all of the following:
 - i. By failing to properly investigate and/or evaluate incidents of violations of rights, including by unconstitutional medical care at

- 1 the jail;
- 2 ii. By ignoring and/or failing to properly and adequately investigate
- 3 and/or investigate and discipline unconstitutional or unlawful
- 4 conduct by custodial and medical personnel;
- 5 iii. By turning a blind eye to custodial and medical personnel who
- 6 direct, aid, and/or assist with the distribution of hazards, including
- 7 illicit drugs, into the Madera County jails; and
- 8 iv. By allowing, tolerating, and/or encouraging custodial and medical
- 9 personnel to: fail to file complete and accurate reports; file false
- 10 reports; make false statements; and/or obstruct or interfere with
- 11 investigations of unconstitutional or unlawful conduct by
- 12 withholding and/or concealing material information;
- 13 k. To allow, tolerate, and/or encourage a “code of silence” among law
- 14 enforcement officers, MSD personnel, custodial personnel and medical
- 15 personnel at the jail whereby an officer or member of the MSD or medical
- 16 staff does not provide adverse information against a fellow officer, or
- 17 member of the MSD or the medical staff;
- 18 1. To fail to have and enforce necessary, appropriate, and lawful policies,
- 19 procedures, and training programs to prevent or correct the
- 20 unconstitutional conduct, customs, and procedures described in
- 21 subparagraphs (a) through (j) above, with deliberate indifference to the
- 22 rights and safety of pretrial detainees, such as , and in the face of an
- 23 obvious need for such policies, procedures, and training programs.

24 80. The unconstitutional actions and/or omissions of Defendants DOES 1

25 through 10, as well as other officers employed by or acting on behalf of the COUNTY

26 and MSD, on information and belief, were pursuant to the following customs, policies,

27 practices, and/or procedures of the COUNTY and the MSD, stated in the alternative,

28 which were directed, encouraged, allowed, and/or ratified by policymaking officers for

1 the COUNTY and MSD, including SHERIFF POGUE:

- 2 a. To fail to properly and adequately hire, train, supervise, and monitor
3 custodial and medical personnel at the jails;
- 4 b. To fail to use appropriate and generally accepted law enforcement
5 procedures for handling persons in medical crisis;
- 6 c. To fail to institute, require, and enforce proper and adequate training,
7 supervision, policies, and procedures concerning handling persons in
8 medical crisis;
- 9 d. To cover up violations of constitutional rights by any or all of the
10 following:
 - 11 i. By failing to properly investigate and/or evaluate complaints or
12 incidents of handling of persons in medical crisis;
 - 13 ii. By ignoring and/or failing to properly and adequately investigate
14 and/or discipline unconstitutional or unlawful law enforcement
15 activity; and
 - 16 iii. By allowing, tolerating, and/or encouraging law enforcement
17 officers to: fail to file complete and accurate reports; file false
18 reports; make false statements; intimidate, bias and/or “coach”
19 witnesses to give false information and/or to attempt to bolster
20 officers’ stories; and/or obstruct or interfere with investigations of
21 unconstitutional or unlawful law enforcement conduct by
22 withholding and/or concealing material information;
- 23 e. To allow, tolerate, and/or encourage a “code of silence” among law
24 enforcement officers whereby an officer does not provide adverse
25 information against a fellow law enforcement officer;
- 26 f. To allow, tolerate, and/or encourage a “code of silence” among custodial
27 and medical personnel at the COUNTY jails whereby custodial and
28 medical personnel does not provide adverse information against a fellow

1 staffer;

2 g. To fail to have and enforce necessary, appropriate, and lawful policies,
3 procedures, and training programs to prevent or correct the
4 unconstitutional conduct, customs, and procedures described in
5 subparagraphs (a) through (g) above, with deliberate indifference to the
6 rights and safety of pretrial detainees, such as , and in the face of an
7 obvious need for such policies, procedures, and training programs.

8 81. Defendants COUNTY and MSD, through their employees and agents, and
9 through their policy-making supervisors, SHERIFF POGUE and DOES 8 through 10,
10 failed to properly hire, train, instruct, monitor, supervise, evaluate, investigate, and
11 discipline Defendants DOES 1 through 10, and other COUNTY and MSD personnel,
12 with deliberate indifference to the constitutional rights of DOUGLAS CHESLIK,
13 Plaintiff and others in similar positions, as described above, and therefore, those rights
14 thereby violated.

15 82. The unconstitutional actions and/or omissions of Defendants DOES 1
16 through 10, and other MSD custody and medical staff, as described above, were
17 approved, tolerated, and/or ratified by policymaking officers for the COUNTY and
18 MSD, including Defendants SHERIFF POGUE and DOES 8 through 10. Plaintiff is
19 informed and believes and thereon alleges that the details of this incident have been
20 revealed to the authorized policymakers within the COUNTY and MSD, and that such
21 policymakers have direct knowledge of the fact that the injuries DOUGLAS CHESLIK
22 sustained while in MSD custody were the result of deliberate indifference to his rights
23 to be protected and safe while in the custody of the COUNTY/MSD, and his rights to
24 have access to medical care when suffering a medical emergency. Notwithstanding this
25 knowledge, the authorized policymakers within the COUNTY and MSD have
26 approved of the conduct and decisions of Defendants DOES 1 through 10 in this matter,
27 and have made a deliberate choice to endorse such conduct and decisions, and the basis
28 for them, that resulted in the injuries sustained by DOUGLAS CHESLIK while in MSD

1 custody. By so doing, the authorized policymakers within the COUNTY and MSD
2 have shown affirmative agreement with the individual Defendants' actions and have
3 ratified the unconstitutional acts of the individual Defendants. Furthermore, Plaintiff is
4 informed and believes, and thereupon alleges, that Defendants SHERIFF POGUE and
5 DOES 8 through 10, and other policy-making officers for the COUNTY and MSD were
6 and are aware of a pattern of misconduct and injury caused by COUNTY Jails custody
7 and medical staff similar to the conduct of Defendants described herein, but failed to
8 discipline culpable custody and medical staff and failed to institute new procedures and
9 policy within the COUNTY and MSD.

10 83. The aforementioned customs, policies, practices, and procedures; the
11 failures to properly and adequately hire, train, instruct, monitor, supervise, evaluate,
12 investigate, and discipline; and the unconstitutional orders, approvals, ratification, and
13 toleration of wrongful conduct of Defendants COUNTY and MSD were a moving force
14 and/or a proximate cause of the deprivations of DOUGLAS CHESLIK's clearly
15 established and well-settled constitutional rights in violation of 42 U.S.C. § 1983.
16 Defendants subjected DOUGLAS CHESLIK to their wrongful conduct, depriving
17 DOUGLAS CHESLIK of rights described herein, knowingly, maliciously, and with
18 conscious and reckless disregard for whether the rights and safety of DOUGLAS
19 CHESLIK and others would be violated by their acts and/or omissions.

20 84. As a direct and proximate result of the unconstitutional actions, omissions,
21 customs, policies, practices, and procedures of Defendants COUNTY and MSD, as
22 described above, DOUGLAS CHESLIK suffered serious injuries and is entitled to
23 damages, penalties, costs, and attorneys' fees against Defendants COUNTY and MSD.

24 **FIFTH CLAIM FOR RELIEF**

25 **Supervisory Liability Causing Constitutional Violations,**

26 **(Failure to Properly Train, Supervise and Discipline, 42 U.S.C. § 1983)**

27 **(By Plaintiff DOUGLAS CHESLIK As Against Defendants SHERIFF POGUE,**
28 **and DOES 7 through 10)**

1 85. Plaintiff reallege and incorporate herein by reference each of the
2 preceding paragraphs of this complaint, and any subsequent paragraphs.

3 86. At all material times, SHERIFF POGUE and DOES 8 through 10 had the
4 duty and responsibility to constitutionally hire, train, instruct, monitor, supervise,
5 evaluate, investigate, staff, and discipline the other Defendants employed by their
6 respective agencies in this matter, as well as all employees and agents of the COUNTY
7 and MSD.

8 87. Defendants SHERIFF POGUE, and DOES 8 through 10 failed to properly
9 hire, train, instruct, monitor, supervise, evaluate, investigate, and discipline the
10 respective employees of their agencies, including Defendants DOES 1 through 10, and
11 other COUNTY and MSD personnel, with deliberate indifference to DOUGLAS
12 CHESLIK's, and others' constitutional rights, which were thereby violated as
13 described above.

14 88. As supervisors, SHERIFF POGUE, and DOES 8 through 10 each
15 permitted and failed to prevent the unconstitutional acts of other Defendants and
16 individuals under their supervision and control, and failed to properly supervise such
17 individuals, with deliberate indifference to the rights to safety and protections while
18 detained at Madera County Jail and the rights to the serious medical and mental health
19 needs of DOUGLAS CHESLIK. Supervising Defendants either directed his or her
20 subordinates in conduct that violated 's rights, or set in motion a series of acts and
21 omissions by his or her subordinates that the supervisor knew or reasonably should
22 have known would deprive DOUGLAS CHESLIK of rights, or knew his or her
23 subordinates were engaging in acts likely to deprive DOUGLAS CHESLIK of rights
24 and failed to act to prevent his or her subordinate from engaging in such conduct, or
25 disregarded the consequence of a known or obvious training deficiency that he or she
26 must have known would cause subordinates to violate DOUGLAS CHESLIK's rights,
27 and in fact did cause the violation of DOUGLAS CHESLIK's rights. (*See*, Ninth
28 Circuit Model Civil Jury Instruction 9.4). Furthermore, each of these supervising

1 Defendants is liable in their failures to intervene in their subordinates' apparent
2 violations of DOUGLAS CHESLIK's rights.

3 89. The unconstitutional customs, policies, practices, and/or procedures of
4 Defendants COUNTY and MSD, as stated herein, were directed, encouraged, allowed,
5 and/or ratified by policymaking officers for Defendants COUNTY and MSD, including
6 Defendants SHERIFF POGUE, and DOES 8 through 10, respectively, with deliberate
7 indifference to Plaintiff's and others' constitutional rights, which were thereby violated
8 as described above.

9 90. The unconstitutional actions and/or omissions of Defendants DOES 1
10 through 10, and other COUNTY and MSD personnel, as described above, were
11 approved, tolerated, and/or ratified by policymaking officers for the COUNTY and
12 MSD, including Defendants SHERIFF POGUE, and DOES 8 through 10.

13 91. Plaintiff is informed and believes and thereon alleges that the details of
14 this incident have been revealed to Defendants SHERIFF POGUE, and DOES 8
15 through 10 and that such Defendant-policymakers have direct knowledge of the fact
16 that the injuries DOUGLAS CHESLIK sustained while in MSD custody were not
17 justified or necessary, but represented deliberate indifference to his rights to be
18 protected and safe while in the COUNTY's custody and his rights to his serious medical
19 and mental health needs, as set forth above. Notwithstanding this knowledge, on
20 information and belief, Defendants SHERIFF POGUE and DOES 8 through 10 have
21 approved and ratified of the conduct and decisions of Defendants DOES 1 through 10
22 in this matter, and have made a deliberate choice to endorse such conduct and decisions,
23 and the basis for them, that resulted in the injuries DOUGLAS CHESLIK sustained
24 while in MSD custody. By so doing, Defendants SHERIFF POGUE and DOES 8
25 through 10 have shown affirmative agreement with the individual Defendants' actions
26 and have ratified the unconstitutional acts of the individual Defendants.

27 92. Furthermore, Plaintiff is informed and believes, and thereupon alleges,
28 that Defendants SHERIFF POGUE, and DOES 8 through 10 and other policymaking

1 officers for the COUNTY and MSD were and are aware of a pattern of misconduct and
2 injury, and a code of silence, caused by COUNTY and MSD custody, medical and
3 mental health staff personnel similar to the conduct of Defendants described herein,
4 but failed to discipline culpable law enforcement officers and employees and failed to
5 institute new procedures and policy within the COUNTY and MSD.

6 93. The aforementioned customs, policies, practices, and procedures; the
7 failures to properly and adequately hire, train, instruct, monitor, supervise, evaluate,
8 investigate, and discipline; and the unconstitutional orders, approvals, ratification, and
9 toleration of wrongful conduct of Defendants SHERIFF POGUE, and DOES 8 through
10 10 were a moving force and/or a proximate cause of the deprivations of DOUGLAS
11 CHESLIK's clearly established and well-settled constitutional rights in violation of 42
12 U.S.C. § 1983, as more fully set forth above.

13 94. Defendants subjected DOUGLAS CHESLIK to their wrongful conduct,
14 depriving DOUGLAS CHESLIK of rights described herein, knowingly, maliciously,
15 and with conscious and reckless disregard for whether the rights and safety of
16 DOUGLAS CHESLIK and others would be violated by their acts and/or omissions.

17 95. As a direct and proximate result of the unconstitutional actions, omissions,
18 customs, policies, practices, and procedures of Defendants SHERIFF POGUE, and
19 DOES 8 through 10 as described above, Plaintiff sustained serious and permanent
20 injuries and is entitled to damages, penalties, costs, and attorneys' fees.

21 **SIXTH CLAIM FOR RELIEF**

22 **Negligence**

23 **(By Plaintiff DOUGLAS CHESLIK As Against All Defendants)**

24 96. Plaintiff reallege and incorporate herein by reference each of the
25 preceding paragraphs of this complaint, and any subsequent paragraphs.

26 97. This action is brought pursuant to §§ 820 and 815.2 of the California
27 Government Code. Under §§ 820 of the Government Code, as public employees,
28 Defendants OFFICER EFRAIN JIMENEZ, DEPUTY K. BEHE, DOE REGISTERED

1 NURSE and DOES 1 through 10, inclusive, and each of them, are liable for injuries
2 caused by their acts or omissions to the same extent as private persons. Under §§ 815.2
3 of the Government Code, Defendants MSD, COUNTY, STATE and CHP are
4 vicariously liable for the acts and omissions of its employees committed within the
5 course and scope of their employment.

6 98. At all times, Defendants OFFICER EFRAIN JIMENEZ, DEPUTY K.
7 BEHE, DOE REGISTERED NURSE and DOES 1 through 10, inclusive owed Plaintiff
8 DOUGLAS CHESLIK the duty to act with due care in the execution and enforcement
9 of any right, law, or legal obligation, and to furnish appropriate medical treatment and
10 or accommodations as needed. Defendants, and each of them, owed these duties of care
11 to DOUGLAS CHESLIK by virtue of his arrest and confinement in MADERA
12 COUNTY JAIL.

13 99. Furthermore, the duties of reasonable care and medical accommodation
14 owed to DOUGLAS CHESLIK by Defendants, and each of them, include but are not
15 limited to the following specific obligations:

- 16 a. To provide proper post arrest care;
- 17 b. To properly provide proper care for individuals under their custody;
- 18 c. To provide safety checks under Title 15;
- 19 d. To provide for the medical needs in jail custody for individuals such as
20 DOUGLAS CHESLIK;
- 21 e. To provide proper housing for individuals such as DOUGLAS CHESLIK;
- 22 f. To tend to the mental health needs of individuals such as DOUGLAS
23 CHESLIK;
- 24 g. To summon necessary and appropriate medical care for DOUGLAS
25 CHESLIK;
- 26 h. To use generally accepted law enforcement procedures that are reasonable
27 and appropriate for DOUGLAS CHESLIK's status;
- 28 i. To refrain from abusing their authority granted them by law;

j. To refrain from violating Plaintiff's rights guaranteed by the United States and California Constitutions, as set forth herein, and as otherwise protected by law.

100. Defendants, and each of them, failed to exercise ordinary care in their failures of duty as detailed in the preceding paragraph, thereby proximately and foreseeably causing DOUGLAS CHESLIK's injuries.

101. Defendants, and each of them, further breached their duty of care and failed to exercise ordinary care in the failure to ensure DOUGLAS CHESLIK received the proper care.

102. Defendants, through their acts and omissions, breached each and every one of the aforementioned duties owed to Plaintiff.

103. As a direct and proximate result of Defendants' breaches of duty, DOUGLAS CHESLIK suffered significant medical injuries and experienced immense pain and suffering.

SEVENTH CLAIM FOR RELIEF

Negligence – Medical Malpractice

(By Plaintiff DOUGLAS CHESLIK As Against All Defendant DOE

REGISTERED NURSE and DOES 1 THROUGH 10)

104. Plaintiff reallege and incorporate herein by reference each of the preceding paragraphs of this complaint, and any subsequent paragraphs.

105. DOUGLAS CHESLIK was under the care and treatment of Defendants DOE REGISTERED NURSE and DOES 1 through 10, all of whom were COUNTY medical staff assigned to the COUNTY Jails, including MADERA COUNTY JAIL, who were required to examine, treat, monitor, prescribe for and care for him and to provide him with medical attention when he suffered a medical emergency.

106. These Defendants, acting within the scope and course of their employment with Defendants COUNTY and MSD, negligently, carelessly and unskillfully cared for, attended, handled, controlled; failed to monitor and follow-up; abandoned; failed

1 to classify, failed to appropriately diagnose and/or refer DOUGLAS CHESLIK to
2 specialist medical care providers; negligently failed to provide physician care;
3 negligently failed to provide psychiatry care; carelessly failed to detect, monitor, and
4 follow-up with his condition; and negligently, carelessly and unskillfully failed to
5 possess and exercise that degree of skill and knowledge ordinarily possessed and
6 exercised by others in the same profession and in the same locality as Defendants for
7 the benefit of their patient and dependent pre-trial detainee DOUGLAS CHESLIK.

8 107. Defendant supervisors and each of them failed to supervise, train and
9 monitor their subordinates, to maintain proper supervision, classification and staffing,
10 to timely provide DOUGLAS CHESLIK emergency medical and mental health care,
11 failed to provide adequate and competent staffing, and to ensure the care and treatment
12 ordered for DOUGLAS CHESLIK was provided.

13 108. As a direct and legal result of the aforesaid negligence and carelessness of
14 Defendants' actions and omissions, Plaintiff sustained injuries and damages, and
15 against these Defendants, and each of them, are entitled to compensatory damages and
16 as applicable to this claim for Medical Negligence, to be proven at time of trial.

17 109. Defendants COUNTY and MSD are vicariously liable for the violations
18 of state law and conduct of their officers, deputies, employees, and agents, including
19 individual named defendants, under California Government Code § 815.2.

20 **EIGHTH CLAIM FOR RELIEF**

21 **Violation of California Government Code § 845.6**

22 **(By Plaintiff DOUGLAS CHESLIK As Against All Defendants Save STATE,**
23 **CHP and CHP OFFICER EFRAIN JIMENEZ)**

24 110. Plaintiff realleges and incorporates herein by reference each of the
25 preceding paragraphs of this complaint, and any subsequent paragraphs.

26 111. This claim for relief is bring brought pursuant to Government Code §
27 845.6. This action is also brought pursuant to §§ 820 and 815.2 of the California
28 Government Code. Under §§ 820 of the Government Code, as public employees,

1 Defendants DEPUTY K. BEHE, DOE REGISTERED NURSE and DOES 1 through
2 10, inclusive, and each of them, are liable for injuries caused by their acts or omissions
3 to the same extent as private persons. Under §§ 815.2 and 845.6 of the Government
4 Code, Defendants MSD and COUNTY are vicariously liable for the acts and omissions
5 of its employees committed within the course and scope of their employment.

6 112. When DOUGLAS CHESLIK was in MADERA COUNTY JAIL,
7 Defendants DEPUTY K. BEHE, DOE REGISTERED NURSE, and DOES 1 through
8 10, knew or should have known that DOUGLAS CHESLIK was in need of immediate
9 medical care and treatment, and each failed to take reasonable action to summon
10 immediate medical care and treatment to DOUGLAS CHESLIK. Defendants were
11 aware that DOUGLAS CHESLIK had just been in a serious care accident, was
12 complaining about chest pains, and that something was wrong with his blood pressure.

13 113. Indeed, when DOUGLAS CHESLIK was evaluated by Defendant DOE
14 REGISTERED NURSE and DOES 1 through 10, it was clear that DOUGLAS
15 CHESLIK needed emergency medical treatment, yet, Defendants failed to provide
16 immediate treatment to DOUGLAS CHESLIK and simply booked him into jail.

17 114. Each such individual defendant, employed by and acting within the course
18 and scope of his/her employment with Defendants COUNTY and MSD, knowing
19 and/or having reason to know of DOUGLAS CHESLIK's need for immediate medical
20 care and treatment, failed to take reasonable action to summon such care and treatment
21 in violation of California Government Code § 845.6.

22 115. Defendants COUNTY and MSD are vicariously liable for the violations
23 of state law and conduct of their officers, deputies, employees, and agents, including
24 individual named defendants, under California Government Code § 815.2.

25 116. As a direct and proximate result of the aforementioned acts of these
26 Defendants, DOUGLAS CHESLIK was injured as set forth above, and their losses
27 entitle Plaintiff to all damages allowable under California law. Plaintiff sustained
28 serious and permanent injuries and is entitled to damages, penalties, costs, and attorney

1 fees under California law, including punitive damages against these individual
2 Defendants.

3 **NINTH CLAIM FOR RELIEF**

4 **Violation of California Civil Code §52.1 (Tom Bane Act)**

5 **(By Plaintiff DOUGLAS CHESLIK As Against All Defendants)**

6 117. Plaintiff reallege and incorporate herein by reference each of the
7 preceding paragraphs of this complaint, and any subsequent paragraphs.

8 118. By their acts, omissions, customs, and policies, Defendants, each acting
9 in concert/conspiracy, as described above, while DOUGLAS CHESLIK was in
10 custody, and by threat, intimidation, and/or coercion, interfered with, attempted to
11 interfere with, and violated DOUGLAS CHESLIK's rights under California Civil Code
12 § 52.1 and under the United States Constitution and California Constitution as follows:

- 13 a. The right to be free from objectively unreasonable treatment and
14 deliberate indifference to 's serious medical needs while in custody as a
15 pretrial detainee as secured by the Fourth and/or Fourteenth Amendments
16 to the United States Constitution and by California Constitution, Article
17 1, §§ 7 and 13;
- 18 b. The right for the familial association to be free from government
19 interference as secured by the Fourteenth Amendments to the United
20 States Constitution;
- 21 c. The right to enjoy and defend life and liberty; acquire, possess, and protect
22 property; and pursue and obtain safety, happiness, and privacy, as secured
23 by the California Constitution, Article 1, § 1; and
- 24 d. The right to emergency medical and mental health care as required by
25 California Government Code §845.6.

26 119. Defendants' violations of DOUGLAS CHESLIK's due process rights
27 with deliberate indifference, in and of themselves constitute violations of the Bane Act.
28 Alternatively, separate from, and above and beyond, Defendants' attempted

1 interference, interference with, and violation of DOUGLAS CHESLIK's rights as
2 described above, Defendants violated DOUGLAS CHESLIK's rights by the following
3 conduct constituting threat, intimidation, or coercion:

- 4 a. With deliberate indifference to DOUGLAS CHESLIK's serious medical
5 and mental health needs, suffering, and risk of grave harm including death,
6 depriving of necessary, life-saving care for his medical needs;
- 7 b. With deliberate indifference to hazards that posed a risk to pretrial
8 detainees, such as ;
- 9 c. Subjecting to ongoing violations of his rights to prompt care for his
10 serious medical and mental health needs over days, causing immense and
11 needless suffering, intimidation, coercion, and threats to his life and well-
12 being;
- 13 d. Deliberately contracting for and causing the provision of inadequate and
14 incompetent medical health care to Madera County jail detainees and
15 inmates;
- 16 e. Requiring medical and mental health staff to work outside their scope of
17 practice, and conduct assessments, triage, and make medical and housing
18 decisions for patients, including Plaintiff, they are not competent to make;
19 and
- 20 f. Instituting and maintaining the unconstitutional customs, policies, and
21 practices described herein, when it was obvious that in doing so,
22 individuals such as Plaintiff would be subjected to violence, threat,
23 intimidation, coercion, and ongoing violations of rights as Plaintiff was
24 here.

25 120. The threat, intimidation, and coercion described herein were not necessary
26 or inherent to Defendants' violation of DOUGLAS CHESLIK's rights, or to any
27 legitimate and lawful jail or law enforcement activity.

28 ///

1 121. Further, all of Defendants' violations of duties and rights, and coercive
2 conduct, described herein were volitional acts; none was accidental or merely
3 negligent.

4 122. Further, each Defendant violated DOUGLAS CHESLIK's rights reckless
5 disregard and with the specific intent and purpose to deprive him of his enjoyment of
6 those rights and of the interests protected by those rights.

7 123. Defendant COUNTY is vicariously liable for the violations of state law
8 and conduct of their officers, deputies, employees, and agents, including individual
9 named defendants, under California Government Code § 815.2.

10 124. As a direct and proximate result of Defendants' violation of California
11 Civil Code § 52.1 and of DOUGLAS CHESLIK's rights under the United States and
12 California Constitutions, Plaintiff sustained injuries and damages, and against each and
13 every Defendant is entitled to relief, including punitive damages against all individual
14 Defendants, and all damages allowed by California Civil Code §§ 52 and 52.1 and
15 California law, not limited to costs attorneys' fees, and civil penalties.

16 **REQUEST FOR RELIEF**

17 Wherefore, Plaintiff respectfully requests that the Court enter a judgment as
18 follows:

- 19 A. Violation of DOUGLAS CHESLIK's constitutional rights, pursuant to
20 state law and federal civil rights law;
- 21 B. DOUGLAS CHESLIK's pain, suffering, and disfigurement, pursuant to
22 state and federal civil rights law;
- 23 C. General Damages; according to proof plus all further and proper relief
- 24 D. Non-Economic Damages, according to proof plus all further and proper
25 relief;
- 26 E. Punitive damages as to individual peace officer defendants;
- 27 F. Attorney's fees pursuant to State Law (Cal. Code Civ. Proc. § 1021.5 &
28 private attorney general doctrine);

- 1 G. A multiplier of damages and penalties under the Tom Bane Act;
2 H. Interest; and
3 I. All other damages, penalties, costs, interest, and attorneys' fees as allowed
4 by 42 U.S.C. §§ 1983 and 1988; California Code of Civil Procedure §§
5 and 1021.5; California Civil Code §§ 52 *et. seq.*, 52.1; and as otherwise
6 may be allowed by California and/or federal law.

7 Dated: December 21, 2023

LAW OFFICES OF CHRISTIAN CONTRERAS
A PROFESSIONAL LAW CORPORATION

8
9
10 By: 

Christian Contreras, Esq.
Edwin S. Salguero, Esq.
Attorneys for Plaintiff,
DOUGLAS CHESLIK

11
12
13 **DEMAND FOR JURY TRIAL**

14 Plaintiff, DOUGLAS CHESLIK, hereby makes a demand for a jury trial in this
15 action.

16 Dated: December 21, 2023

LAW OFFICES OF CHRISTIAN CONTRERAS
A PROFESSIONAL LAW CORPORATION

17
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19 By: 

Christian Contreras, Esq.
Edwin S. Salguero, Esq.
Attorneys for Plaintiff,
DOUGLAS CHESLIK